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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,958	03/19/2004	Chanh C. Vo	HE0222	9176
21495	7590	09/21/2005	EXAMINER	
CORNING CABLE SYSTEMS LLC			CHIEM, DINH D	
P O BOX 489			ART UNIT	
HICKORY, NC 28603			PAPER NUMBER	
			2883	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,958

Applicant(s)

VO ET AL.

Examiner

Erin D. Chiem

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7, 11, 12, 17-21, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) 5-9, 13-16, 22-27, 30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 11, 12, 17-21, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A, Fig. 1.

Species B, Fig. 2.

Species C, Fig. 3.

Species D, Fig. 4.

Species E, Fig. 5.

Species F, Fig. 6.

Species G, Fig. 7.

Species H, Fig. 8.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Attorney Christopher Dremann on September 12, 2005 a provisional election was made without traverse to prosecute the invention of Species A, claims 1-4, 7, 11-12, 17-21, and 28-29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-9, 13-16, 22-27, and 30-31 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Applicant had initially chosen claims 8-10, 23, 24, and 31. However, in further consideration of the structure of the claims dependency and the broadness of the claims, it is unclear whether the means for interconnections comprises a splice tray or not. Given a reasonable and broadest interpretation, the Examiner cannot assume that the means for interconnections in claims 8-10, 23, 24, and 31 also comprises a splice tray, as in the elected Species A. Therefore, claims 8-10, 23, 24, and 31 are withdrawn from consideration because they are not drawn to the elected Species A.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8, 10-12, 17-21, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neil et al. (US Patent 5,218,664) in view of Battey et al. (US Application 2002/0051616 A1).

Regarding claims 1-4, 11-12, 17-21, 28 and 29 O'Neil teaches a splice pedestal comprising a base (Fig. 1; 11, 12), a housing 10 positioned over the base, a distribution cable 9 received within the interior cavity, a plate 25 secured to one of the housing and the base and operable for separating the interior cavity into a first compartment 21 and a second compartment (not explicitly drawn but explained in col. 2, lines 52-57). A splice tray 24, not enclosed within another enclosure, is provided to connect the cables 9 passing through the buffer tube 23 and to the splice tray for interconnection. The first compartment is above the "silicon pail" 21 wherein the silicon pail is filled up with a gel preventing access of water to the splice trace, thus isolating the splice tray and separate the pedestal into two separate compartments. The container 10 creates a bell jar effect when placed over the base.

However, O'Neil does not explicitly teach the limitation of a drop cable received within the interior cavity and interconnect with the cables within the cavity.

Batthey teaches, similarly, a splice pedestal having a base 12 wherein the distribution cable is received into the cavity through the port 14 and exits the cavity through a separate port 14, and teaches a cassette 106 used to interconnect multiple drop cables [0031] [0034] [0036]. The purpose for Batthey to provide a drop cable is to provide a distinct cable drawn from the distribution cable to each subscriber. Furthermore, the purpose for providing the splice tray is for the technician to customize the signal needed for each subscriber and the splice tray acts as a cable organizer.

Since O'Neil and Batthey are both from the same field of endeavor, the purpose disclosed by Batthey would have been recognized in the pertinent art of O'Neil.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ the teaching of O'Neil's enclosure having two separate compartments to isolate the environmentally sensitive connections from the moisture of the earth, where these types of optical fiber termination pedestal are typically installed. Although O'Neil does not explicitly teaches a drop cable from the pedestal, but it reasonably obvious for an optical cable termination pedestal, as taught by O'Neil, that requires customizing the feed signal to each specific subscriber must have a drop cable. **The motivation** for using O'Neil's enclosure is to isolate and protect the sensitive connections from the moist environment beneath the earth and the motivation for having a drop cable is to provide a distinct feed signal that is customized to each subscriber.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erin D. Chiem whose telephone number is (571) 272-3102. The examiner can normally be reached on Monday - Thursday 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Erin D Chiem
Examiner
Art Unit 2883


Frank G. Font
Supervisory Primary Examiner
Technology Center 2800